

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

UNITED STATES OF AMERICA,

Case No. 3:12-cv-02265-SI

Plaintiff,

v.

**ORDER SETTING NOTICE AND
PROCEDURES FOR FAIRNESS
HEARING**

CITY OF PORTLAND,

Defendant.

This matter comes before the Court upon the unopposed motion of Plaintiff, United States, to set certain procedures for a fairness hearing regarding the Parties' jointly proposed Settlement Agreement. ECF #3-1 ("Agreement"). The purpose of the proposed Agreement is to resolve the United States' claims in this matter concerning certain policing practices, rather than engage in contested litigation.

Prior to making factual findings as to whether the Agreement, as a whole, is fair, adequate, and reasonable, the Court will conduct a hearing to receive relevant, non-cumulative public comment from all interested stakeholders. To effectuate an efficient and fair process to receive public testimony, and to receive briefing from the Parties addressing public comments, and the fair, adequate, and reasonable standard of review, the Court hereby:

ORDERS the following process and schedule for the submission of written comments, and the taking of oral testimony at a fairness hearing. If a member of the public, or an organization, desires to provide oral testimony, such individual or organization is encouraged to

provide the Court with a written submission summarizing the topics about which the individual or organization desires to provide testimony to the Court. If any individual or organization is unable to personally attend the scheduled hearing and would like to provide oral testimony, any such individual or organization may present oral testimony by video and submit such testimony on a DVD attached to their written submission. All such written submissions shall be made on, or attached to, the form appended to this Order as Exhibit A, and should be received by the Clerk of Court no later than January 31, 2014 at 5:00 pm PST. While the Court will accept written and video submissions, as well as testimony at the hearing, until the conclusion of the hearing, the Court encourages all organizations or persons wishing to speak at the Fairness Hearing to submit a written statement in advance on the form attached hereto.

DIRECTS the Clerk to make available to the public the appended form attached hereto as Exhibit A, which individuals and organizations shall use for the purposes of submitting written comments to the Court. The form shall be available at the Civil Intake Counter and on the District Court's public website: <http://www.ord.uscourts.gov/en/public/for-the-public>.

DIRECTS the Clerk to provide counsel for all Parties with electronic copies of the written submissions by no later than February 3, 2014 at 5 p.m. PST.

FURTHER DIRECTS the Clerk to maintain the original submitted forms and attachments on file until the case is closed. The written submissions will not be made part of the record, unless and until I deem otherwise, but shall be considered by the Court and the Parties for the purposes of the hearing. The Court shall utilize the submissions of individuals and organizations to determine the scope of relevant, non-cumulative testimony that such individuals and organizations may offer the Court on record at the fairness hearing.

IT IS FURTHER ORDERED that the United States shall provide the Court a pre-hearing submission by February 11, 2014, to assist the Court in organizing any submitted written submissions and video-taped testimony by topic, and which will cross-reference where such topic is addressed in the proposed Settlement Agreement. The United States shall confer with all Parties prior to submitting such document with the Court.

The Court ORDERS a fairness hearing beginning on February 18, 2014 at 9 a.m. PST to receive any statements from the Parties, as well as relevant public testimony concerning the fairness, adequacy, and reasonableness of the proposed Agreement. Any oral testimony received on DVD, as noted above for persons or organizations unable to personally attend the hearing, may be played in open Court during the hearing.

The Parties are HEREBY DIRECTED to post this Order on their public internet sites within three (3) business days of the issuance of this Order, and to provide copies to their customary media contacts. Furthermore, any individual or representative who previously provided comment to a party, and provided contact information to the party, should be provided a copy of this order via electronic mail by the party that was contacted, or by first class mail if no email contact was provided. Further distribution for posting to community centers within Portland city limits is encouraged.

The fairness hearing is ORDERED to be conducted in the following fashion. Upon arrival to the Courthouse, members of the public who previously submitted written comments, and noted their request to provide oral testimony, will sign-in at Courtroom [insert number] to notify the Courtroom Deputy Clerk that they are present and ready to testify.. The Court will determine the order of the individuals providing testimony. Each member of the public will be provided five (5) minutes to provide oral testimony. Organizations providing testimony will be

limited to presenting three (3) representatives of their organization. Each representative will have ten (10) minutes to testify. The Court may extend time for testimony for good cause. The Court may, at its discretion, permit individuals who have not timely submitted the attached form to testify, subject to the same limitations set forth above. The Parties may raise proper objections to testimony. Only testimony and other evidence that is relevant, as determined by the Court, will be allowed at the hearing.

It is FURTHER ORDERED that upon the close of the fairness hearing, the Parties shall submit post-hearing briefings by March 11, 2014 concerning any argument they would like to submit in rebuttal to, or in clarification of, the public testimony provided to the Court.

Nothing in this Order waives the Parties' governmental, executive, settlement, or attorney-client privileges.

SO ORDERED this ____ day of _____, 2013.

MICHAEL H. SIMON
United States District Judge
District of Oregon

Presented by:

<p>S. AMANDA MARSHALL United States Attorney District of Oregon</p> <p><u>/s/ Adrian L. Brown</u> ADRIAN L. BROWN BILLY J. WILLIAMS Assistant U.S. Attorneys</p>	<p>JOCELYN SAMUELS Acting Assistant Attorney General Civil Rights Division JONATHAN M. SMITH Chief, Special Litigation Section</p> <p><u>/s/ Laura L. Coon</u> LAURA L. COON Special Counsel <u>/s/ R. Jonas Geissler</u> R. JONAS GEISSLER <u>/s/ Michelle A. Jones</u> MICHELLE A. JONES Senior Trial Attorneys</p>
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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

<p>United States of America,</p> <p style="text-align: center;">Plaintiff</p> <p style="text-align: center;">vs.</p> <p>City of Portland,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: right;">Case No. 3:12-CV-02265-SI</p> <p>Public Comment Form Regarding Proposed Settlement Agreement</p> <p>Submitted by:</p> <p>Your First Name: _____</p> <p>Your Last Name: _____</p> <p>Your Organization (if any): _____</p>
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Use this form to submit written comments as ordered by the Court in the above-styled case only. Your written comments should pertain specifically to topics of the proposed settlement agreement in this case, as provided in the boxes below. Any additional pages must be attached to this form, and are limited to 20 pages (single-sided). If you would like to submit oral testimony in addition to your written comments, please check the appropriate box at the end of this form. Pursuant to Court order, live testimony may be restricted to matters that are relevant to the Court's decision in this matter, and may be limited to evidence that is not cumulative of evidence already received by the Court. A copy of the proposed settlement agreement is available online at the following link: http://www.justice.gov/crt/about/spl/documents/ppb_proposedsettle_12-17-12.pdf.

Topics covered by the Proposed Settlement Agreement are listed below. Please check the specific topic(s) that apply to the comments you are submitting for the Court's consideration.

- | | | |
|--|---|--|
| <input type="checkbox"/> Definitions | <input type="checkbox"/> Crisis Intervention Training | <input type="checkbox"/> Conduct of IA Investigations |
| <input type="checkbox"/> Use of Force Policy (General) | <input type="checkbox"/> Crisis Intervention Team | <input type="checkbox"/> CRC Appeals |
| <input type="checkbox"/> Electronic Control Weapons | <input type="checkbox"/> Mobile Crisis Prevention Team | <input type="checkbox"/> Discipline |
| <input type="checkbox"/> Use of Force Reporting | <input type="checkbox"/> Service Coordination Team | <input type="checkbox"/> Communication with Complainant and Transparency |
| <input type="checkbox"/> Use of Force Supervisory Investigations and Reports | <input type="checkbox"/> Bureau of Emergency Communication | <input type="checkbox"/> Community Engagement (General) |
| <input type="checkbox"/> Compliance Audits Related to Use of Force | <input type="checkbox"/> Employee Information System | <input type="checkbox"/> Community Oversight Advisory Board |
| <input type="checkbox"/> Training (General) | <input type="checkbox"/> Officer Accountability (General) | <input type="checkbox"/> Compliance Officer and Community Liaison |
| <input type="checkbox"/> Mental Health Services (General) | <input type="checkbox"/> Investigation Timeframe | <input type="checkbox"/> PPB Compliance Coordinator |
| <input type="checkbox"/> Crisis Intervention (General) | <input type="checkbox"/> On Scene Public Safety Statements and Interviews | <input type="checkbox"/> Agreement Implementation and Enforcement |
| <input type="checkbox"/> Behavioral Health Unit and Advisory Committee | | |

Based upon the boxes you checked above, please clearly describe the specific areas of your concern regarding the fairness, adequacy, and reasonableness of the proposed settlement agreement which you would like to bring to the Court's attention. If attaching additional pages, you are limited to 20 pages (single-sided):

[illegible]

Are you (or is your organization) represented by an attorney? ☐ Yes ☐ No.

Attorney's Name: _____ Attorney's Phone Number: _____

Attorney's Mailing Address: _____

Attorney's Email Address: _____

Have you previously provided written comments or oral testimony to the City of Portland, City Council, or the U.S. Department of Justice (including the United States Attorney) on the matters you are now submitting to the Court? ☐ Yes ☐ No. If yes, please describe whether you submitted written comments, oral testimony, or both, and the date of your prior submission of comments and/or testimony.

In addition to the written comments you are submitting, do you also request to provide oral testimony to the matters you have submitted in writing? ☐ Yes ☐ No. If you are unable to appear in person, but would like to provide oral testimony, please attach a DVD video of your testimony.

Your Signature: _____ **Date:** _____

Your Title (if any): _____

Your Mailing Address: _____

Your Email Address: _____

Your Phone Number(s): _____

For your comments to be taken under Court consideration, the original and one (1) copy of this form and any attachments must be received by the Clerk of the Court, Civil Intake counter*, no later than [insert date] _____ at 4:30pm. All written comments received will be kept on file until this case is closed. Copies may be made available to the public and the parties, but will not become part of the official Court record as evidence, unless the Court determines otherwise. You may submit your form by certified first class mail, or hand delivery to the following address:

Clerk of Court, Civil Intake
United States District Court, District of Oregon
1000 SW Third Ave., Suite 700
Portland, OR 97204

* The Clerk's office cannot answer any questions regarding this form. If you have specific questions regarding this form, please contact the Civil Rights Division toll-free at 877-218-5228, or at community.portland@usdoj.gov.

* La oficina del secretario del tribunal no puede responder a preguntas acerca de este formulario. Si usted tiene preguntas específicas sobre este formulario, por favor póngase en contacto con la Civil Rights Division en 877-218-5228, community.portland@usdoj.gov.